

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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|----------------|----------------------------|-----------------------|
| APPLICANT: | NORBERT MILLER |)Art Unit: |
| | |) 3653 |
| SERIAL NUMBER: | 10/775,568 |)Examiner: |
| | |) Shapiro, Jeffery A. |
| FILING DATE: | February 10, 2004 |) |
| | |)Conf. No.: |
| FOR: | DEVICE FOR ACCEPTING COINS |) 1477 |

**STATEMENT REGARDING FEES FOR FILING OF RCE AND REQUEST FOR
REFUND OF FEES FOR FILING NOTICE OF APPEAL**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner Shapiro:

Applicant has today submitted an RCE entering Applicant's Response to Office Action of October 18, 2007. For the following reasons, it is respectfully submitted that Applicant should not be required to pay any extension of time fees that would be typically necessary to file this RCE and the Response entered therewith.

1. On June 20, 2007 Applicant received an Final Office Action in the above referenced Application. On October 18, 2007, Applicant filed a Response to this Action, with a fee of \$120.00 for a one month extension of time. Applicant does NOT request a refund of this fee.
2. As of December 20, 2008, which was the 6-month due date for response to the Final Office Action, Applicant had not received an Advisory Action indicating entry/non-entry or success of the Response of October 18, 2008. Accordingly, in order to keep the Application from going abandoned, Applicant respectfully filed Notice of Appeal with a

fee for a three month extension of time of \$930.00 (\$1050.00 less \$120.00 previously paid), which was a three month fee minus the one month extension fees already paid. While Applicant does NOT request a refund of this extension of time fees, Applicant does, for reasons set forth below, request a refund of the fee of **\$510.00** for filing the Notice of Appeal.

3. As of early June 2008, Applicant still had not received an Advisory Action indicating entry/non-entry or success of the Response of October 18, 2008. Thus, with the July 20, 2008 seven month deadline for filing an Appeal Brief approaching, Applicant respectfully contacted Examiner Shapiro in order to ascertain an expected receipt date of an Advisory Action. When Examiner Shapiro looked into the matter, it was determined that Applicant's Response to Final of October 18, 2008 had somehow not reached Examiner Shapiro, and therefore, an Advisory Action addressing this Response was never generated. Upon learning of this oversight, and the impending due dates, Examiner Shapiro diligently reviewed the Response and generated an Advisory Action, which was sent to Applicant via fax (June 18, 2008) and mail (June 23, 2008). Applicant would like to respectfully thank Examiner Shapiro for his diligence in generating this Advisory Action.

4. After receiving the Advisory Action, which indicated that the Response of October 18, 2008 would NOT be entered, Applicant reviewed the prosecution issues at hand in the Application, and decided to file an RCE entering the Response. This RCE has been filed on the same day as this Statement and Request for Refund. Applicant filed this RCE with an RCE fee of \$810.00. Applicant does NOT request a refund of this fee.

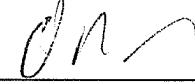
5. With the above in mind, Applicant respectfully submits that the delay in receiving the above referenced Advisory Action was the fault of the USPTO. Accordingly, Applicant submits that any extension of time fees for the five months between the two month due date for filing an Appeal Brief (February 20, 2008) and seven month due date for filing an Appeal Brief (July 20, 2008) should be waived with regards to today's filing

of the RCE. Furthermore, because Applicant was forced to file a Notice of Appeal prior to receipt of an Advisory Action (the PTO having a two month window to generate this Advisory Action), Applicant also respectfully requests a refund of the fees associated with filing the Notice of Appeal of December 20, 2008, i.e., **\$510.00**.

6. In the event that, despite the above statements, the PTO deems any extension of time fees necessary for admittance of the RCE or any other submission, Applicant hereby petitions for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicant's attorneys.

Respectfully submitted,

By: 

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